

REMARKS

In the Final Office Action,¹ the Examiner rejected claims 12, 14, and 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,470,413 to Ogawa ("Ogawa") in view of U.S. Patent No. 6,344,874 to Helms et al. ("Helms") and rejected claims 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Ogawa in view of Helms and U.S. Patent No. 6,360,362 to Fichtner et al. ("Fichtner"). Claims 12 and 14-17 are currently pending. Applicant respectfully traverses the claim rejections for the following reasons.

Claim Rejections - 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 12, 14, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Ogawa in view of Helms. No *prima facie* case of obviousness has been established with respect to claims 12, 14, and 15 for at least the reason that the references, taken alone or in combination, do not teach or suggest each and every element recited in the claims.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), each of three requirements must be met. First, the references, taken alone or in combination, must teach or suggest each and every element recited in the claims. See M.P.E.P. § 2143.03 (8th Ed., Rev. 2, May 2004). Second, there must be some suggestion or

¹ The Final Office Action contains statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action.

motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. Third, a reasonable expectation of success must exist. Moreover, each of these requirements must “be found in the prior art, and not be based on applicant’s disclosure.” M.P.E.P. § 2143 (8th Ed., Rev. 2, May 2004).

Amended claim 12 recites, among other things:

a memory including a first storing region for storing a camera control program required for the CPU and a second storing region for storing non-program data, including said image data and camera control data specific to the digital still camera and recorded during a manufacturing process,

wherein the camera controller is adapted to read out the camera control program in the first storing region while writing or erasing image data in the second storing region.

Ogawa and Helms, taken alone or in combination, fail to teach or suggest at least these elements of claim 12.

In the Office Action dated February 28, 2005 (“previous Office Action”), the Examiner conceded that “the Ogawa reference does not explicitly show when the memory (Flash ROM 15) is in process of rewriting (erasing and writing data operation) operation of data stored therein, a readout operation for another one of them can be simultaneously performed.” See previous Office Action, page 11.

The Examiner now appears to be alleging the opposite. Specifically, the Examiner alleged that Ogawa describes a camera controller that is “adapted to read out the camera control program (camera firmware) in the first storing region while writing or

erasing image data in the second storing region.” See Final Office Action, page 6 (citing Ogawa, col. 5, lines 3-6 and 24-43). However, this passage of Ogawa describes recording data as an image file after the execution of a signal processing program. See Ogawa, col. 5, lines 34-36. Recording data as an image file *after* the execution of a signal processing program does not constitute “[reading] out [a] camera control program in [a] first storing region *while* writing or erasing image data in [a] second storing region,” as claimed.

Moreover, the Examiner inconsistently identified the firmware of Ogawa as both the claimed “camera control program” and the claimed “camera control data.” See Final Office Action, page 3. Claim 12 requires that “camera control program” and “camera control data” be stored in first and second (i.e., different) storing regions, respectively. Therefore, the firmware of Ogawa, which is stored in one storing region, cannot constitute both the claimed “camera control program” and the claimed “camera control data.”

Helms is relied on for its alleged teaching of programming a processor with firmware at a manufacturer and fails to remedy the deficiencies of Ogawa identified above. In addition, Fichtner, relied on for its alleged description of elements in claims 16 and 17, fails to remedy the deficiencies of Ogawa identified above. Accordingly, no *prima facie* case of obviousness has been established with respect to claim 12, and the 35 U.S.C. § 103(a) rejection of claim 12 should be withdrawn.

Claims 14-17 depend from and add additional features to independent claim 12. Accordingly, these claims are allowable for at least the reasons set forth above, and Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. § 103(a).

Conclusion

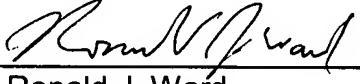
In view of the foregoing remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 22, 2005

By: 

Ronald J. Ward
Reg. No. 54,870